

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

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EURY TAVAREZ HERNANDEZ,

Index No. 716361/2021

Plaintiff,

VERIFIED ANSWER

~~-against-~~

RYDER TRUCK RENTAL, INC. and KEVIN  
MARTINEZ,

Defendants.

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Defendants, RYDER TRUCK RENTAL, INC. and KEVIN MARTINEZ, by their attorneys,  
KENDRIC LAW GROUP P.C., as and for their Answer to Plaintiff's Verified Complaint ("Complaint"),  
respectfully allege upon information and belief as follows:

FIRST: Deny having knowledge or information sufficient to form a belief as to the truth of the  
allegations within paragraphs "1", "6" and "7" of the Complaint

SECOND: Deny upon information and belief each and every allegation within paragraph "3" of  
the Complaint, except admit that on and prior to April 5, 2021, RYDER TRUCK RENTAL, INC. was the  
registered owner of a motor vehicle bearing Indiana license plate #2732821.

THIRD: Deny upon information and belief each and every allegation within paragraph "4" of the  
Complaint, except admit that on April 5, 2021, KEVIN MARTINEZ cautiously operated a motor vehicle  
bearing Indiana license plate #2732821.

FOURTH: Deny having knowledge or information sufficient to form a belief as to the truth of  
the allegations within paragraphs "5" and "12" of the Complaint, and respectfully refer all questions of  
law to the court.

FIFTH: Deny upon information and belief each and every allegation within paragraphs "8", "9",  
"10" and "13" of the Complaint.

SIXTH: Deny upon information and belief each and every allegation within paragraph "11" of the Complaint, and respectfully refer all questions of law to the court.

AS AND FOR A FIRST SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE

SEVENTH: That Plaintiff's Complaint fails to state a viable cause of action as against defendant RYDER TRUCK RENTAL, INC. which, as the lessor of a vehicle, is shielded from vicarious tort liability under the "Graves Amendment", codified at 49 U.S.C. §30106.

AS AND FOR A SECOND SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE

EIGHTH: That if Plaintiff sustained injuries or damages as alleged in the Complaint, which is denied, then said injuries and/or damages were caused in whole or in part as a result of her own culpable conduct and/or assumption of risk and/or failure to mitigate, and if Plaintiff is entitled to any recovery herein, said recovery must be diminished in the proportion which such her culpable conduct and/or assumption of risk and/or failure to mitigate bears to the entire measure of damages for the subject occurrence.

AS AND FOR A THIRD SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE

NINTH: Upon information and belief, any past or future costs or expenses incurred or to be incurred by Plaintiff for medical care, dental care, custodial care or rehabilitative services, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from a collateral source as defined in §4545(c) of the Civil Practice Law and Rules and, therefore, any judgment awarded to him in this action shall be reduced by the amount of any past or future cost or expense which has or will be replaced or indemnified in whole or in part from said collateral source.

AS AND FOR A FOURTH SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE

TENTH: To the extent Plaintiff has not sustained a "serious injury" within the meaning of §5102 of the Insurance Law, and/or has not suffered economic loss greater than "basic economic loss" as defined therein, Defendants will rely upon that fact at the time of trial.

AS AND FOR A FIFTH SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE

ELEVENTH: To the extent Plaintiff was not wearing a seat belt at the time of the subject accident, his own conduct was a contributing factor to his injuries, if any, and Defendants will rely upon that fact at the time of trial.

WHEREFORE, Defendants, RYDER TRUCK RENTAL, INC. and KEVIN MARTINEZ, respectfully demand judgment dismissing Plaintiff's Verified Complaint on the merits; and if Plaintiff is found to have caused or contributed to the incident or damages, that any damages be reduced in proportion to which he may be found to have so caused or contributed to the incident or damages; together with the costs and disbursements of this action.

Dated: Cold Spring Harbor, New York  
August 18, 2021



CHRISTOPHER KENDRIC  
KENDRIC LAW GROUP P.C.  
*Attorneys for Defendants*  
126 Main Street, #279  
Cold Spring Harbor, New York 11724  
(516) 732-4774

TO:  
MARK J. LINDER, ESQ.  
HARMON, LINDER & ROGOWSKY, ESQS.  
*Attorneys for Plaintiff*  
3 Park Avenue, Suite 2300  
New York, New York 10016  
(212) 732-3665

VERIFICATION

STATE OF NEW YORK       )  
COUNTY OF SUFFOLK     )

CHRISTOPHER KENDRIC, an attorney duly admitted to practice law before the courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am the attorney for the defendants, RYDER TRUCK RENTAL, INC. and KEVIN HERNANDEZ. I have read the attached Answer and know the contents thereof and the same are true to my knowledge except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief as to those matters therein not stated upon knowledge is based on the files maintained in my office.

The reason that this Verification is made by your affirmant and not by the defendants is that the defendants are not in the County in which I maintain my office.

Dated: Cold Spring Harbor, New York  
August 18, 2021



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CHRISTOPHER KENDRIC

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

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Plaintiff,

-against-

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VERIFIED ANSWER, DEMAND FOR DAMAGES, DEMAND FOR VERIFIED BILL OF  
PARTICULARS, NOTICE FOR DISCOVERY AND INSPECTION, NOTICE RE: MEDICALS,  
DEMAND FOR EXPERT WITNESS INFORMATION, DEMAND FOR COLLATERAL SOURCE  
INFORMATION, DEMAND FOR MEDICARE / MEDICAID INFORMATION, DEMAND FOR  
SOCIAL SECURITY DISABILITY INFORMATION and NOTICE TO TAKE DEPOSITION UPON  
ORAL EXAMINATION

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